

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JUAN A. GONZALEZ,

Plaintiff,

v.

THE GEO GROUP, INC., et al.,

Defendants.

C22-5042 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff's motions in limine, docket no. 58, are GRANTED in part, DENIED in part, STRICKEN in part as moot, and DEFERRED in part, as follows:

1. Plaintiff's motion to exclude any evidence or reference to the jury regarding Plaintiff's disciplinary and performance evaluations prior to Plaintiff's 2019 request for leave under the Family and Medical Leave Act ("FMLA") is DEFERRED to the pretrial conference. The Court is inclined to grant this motion (unless Plaintiff opens the door to this information) and Defendants shall be prepared to address at the pretrial conference the relevance of Plaintiff's prior performance evaluations and attendance history, and why this evidence should not be precluded as propensity evidence.

2. Plaintiff's motion to exclude any evidence or reference to the jury regarding Plaintiff's attendance information prior to Plaintiff's 2019 request for leave under the FMLA is DEFERRED to the pretrial conference. The Court is inclined to rule on this motion consistent with Plaintiff's first motion in limine.

1 3. Plaintiff's motion to exclude any evidence or reference to the jury
2 regarding information and documents not previously produced during discovery is
3 STRICKEN in part as moot and DENIED in part. The motion is STRICKEN as
4 moot as it relates to Exhibit B to the Supplemental Declaration of Bruce Scott,
5 docket no. 53-2, which purportedly shows disciplinary actions Defendants took
6 against white employees for alleged absenteeism. The Court previously granted
7 summary judgment in favor of Defendants as to Plaintiff's race discrimination
8 claim. *See* Minute Entry (docket no. 61). Accordingly, no evidence of alleged
9 race discrimination shall be presented at trial. The motion is DENIED as it relates
10 to Defendants' "Call Off Tracker," Exhibit A to the Declaration of Bruce Scott,
11 docket no. 35-1, which Defendants produced to Plaintiff in its native Excel
12 spreadsheet format. Plaintiff previously produced the same Excel spreadsheet to
13 Defendants in .pdf format, *see* Ex. 1 to Cooper Decl. (docket no. 64-1), and the
14 Court will not exclude the same spreadsheet because Defendants later produced it
15 in a different format.

16 4. Plaintiff's motion to exclude all evidence of his social media posts is
17 DENIED. The Court has considered Plaintiff's argument under Federal Rule of
18 Evidence 403 in connection with its ruling on this motion in limine.

19 5. Plaintiff's motion to exclude any evidence or reference to the jury
20 regarding Plaintiff's October 25, 2019 to December 28, 2019 timesheets with
21 handwritten notes is DENIED. The Court reserves to trial its ruling on any
22 objections regarding the authenticity and/or admissibility of the notes, attached as
23 Exhibit 2 to the Declaration of Joseph Cooper (docket no. 64-2).

 6. Plaintiff's motion to exclude any evidence or reference to the jury
regarding Naomi Gonzalez's medical records is DEFERRED to the pretrial
conference. Defendants have indicated that the parties might enter into a
stipulation regarding this motion.

 7. Plaintiff's motion to exclude any evidence or reference to the jury
regarding his own medical records is DEFERRED to the pretrial conference.

 8. Plaintiff's motion to exclude any evidence or reference to the jury
regarding Street Dreams Garage, LLC is DENIED.

 9. Plaintiff's motion to exclude any evidence or reference to the jury
regarding Plaintiff's receipt of unemployment compensation benefits is
DEFERRED to the pretrial conference.

 10. Plaintiff's motion to exclude any reference to these motions in
limine is GRANTED.

1 (2) Defendants' motions in limine, docket no. 56, are GRANTED in part and
2 DENIED in part, as follows:

3 1. Defendants' motion to exclude any evidence or testimony relating to
4 employment that Plaintiff allegedly sought by written means of any kind is
5 GRANTED in part and DENIED in part. Plaintiff may not rely on any evidence
6 or testimony concerning his post-termination job search that he did not disclose
7 during discovery. The Court, however, will not preclude Plaintiff from testifying
8 in a manner consistent with his deposition. Defendants may cross-examine
9 Plaintiff regarding his post-termination efforts to seek employment.

10 2. Defendants' motion to exclude any evidence relating to any post-
11 termination negotiations, grievance-processing, or other union-related
12 communications is DEFERRED to the pretrial conference. Plaintiff has clarified
13 that, with respect to his Collective Bargaining Agreement, he intends only to
14 reference Defendants' no-fault attendance policy, "call out" procedures, and any
15 related provisions. Plaintiff also intends to testify about his union-related
16 communications only to show that he allegedly attempted to address what he
17 perceived as Defendants' confusion regarding his family and medical leave and
18 Defendants' alleged failure to correct errors in how his attendance was recorded.
19 The Court is inclined to deny the motion as it relates to these topics.

20 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
21 record.

22 Dated this 6th day of April, 2023.

23 Ravi Subramanian
Clerk

s/Laurie Cuaresma
Deputy Clerk